

REMARKS

The Examiner's Office Action mailed October 7, 2010, which rejected all pending claims, has been reviewed. Reconsideration in view of the foregoing remarks is respectfully requested. Moreover, Applicants have reviewed the Office Action of October 7, 2010, and submit that the following remarks are responsive to all points raised therein. Applicants believe that currently pending claims 1-3 are now in form for allowance.

Status of Claims

Claims 1-3 are pending in the application. Claim 1 has been amended to include canceled claim 4. No new matter has been added.

Rejection of claims 1-4 under 35 USC 112, first paragraph

Reconsideration is respectfully requested of the rejection of claims 1-4 under 35 USC 112, first paragraph as failing to comply with the written description requirement.

Applicants have amended claim 1 and as such request removal of this rejection.

Rejection of Claims 1-3 under 35 USC §102(b)

Reconsideration is respectfully requested of the rejection of claims 1-3 under 35 U.S.C. §102(b) as being anticipated by Snyder (US Patent No. 6,063,771) as evidenced by Sembo et al. (US Patent No. 6201017).

Claim 1 is directed to a method of repelling ticks, fleas, midges, and flies from warm-blooded species. The method includes applying an effective amount of a pyrethroid or pyrethrin in combination with a nicotinic agonist to said warm-blooded species.

To anticipate a claim, the reference cited by the Examiner has to contain all the elements of the claim.

Applicants respectfully submit that Snyder and Sembo do not teach all of the elements of amended claim 1. In particular, Snyder does not teach a

repellence effect of ticks, fleas, midges, and flies. First, Snyder only teaches controlling and second he only teaches lice in humans, which are not included in amended claim 1. Sembo does not cure the deficiencies of Snyder. Although Sembo does teach the arthropods of claim 1, it does not teach that a pyrethroid is a repellant or that a pyrethroid or pyrethrin in combination with a nicotinic agonist are repellants. In fact, Sembo excludes pyrethroids from the repellent list. Nonetheless, Applicants also submit a declaration by Dr. Andreas Turberg specifically for a description of meaning of control/controlling for someone skilled in the art as described in Sembo and Snyder. As Dr. Turberg states repellency is quite different than controlling in the ectoparasitic arena. In fact, one skilled in the art looking at controlling ectoparasites would think to treatment of existing parasites and prevention of re-infestation. Treatment is therapeutic efficacy and prevention is killing adult lice arriving on the host, killing developing stages arriving on the host, and/or killing developing stages in the eggs before hatching. As such, all the elements of claim 1 are not taught by Snyder alone or in combination with Sembo.

As such, Applicants respectfully request the withdrawal of the rejection of claim 1. As claims 2 and 3 directly depend from claim 1, Applicants respectfully request withdrawal of the rejection of claims 2 and 3 as well.

Rejection of Claims 1-4 under 35 USC § 103(a)

Reconsideration is requested of the rejection of claim 4 under §103(a) as being unpatentable over Sembo et al. (US Patent No. 6201017).

Although Sembo does teach the arthropods of amended claim 1, it does not teach that a pyrethroid is a repellant or that a pyrethroid or pyrethrin in combination with a nicotinic agonist are repellants. In fact, Sembo excludes pyrethroids from the repellent list (this has been noted by Dr. Turberg in the attached declaration).

As such, Applicants respectfully submit that Sembo does not render claim 1 obvious and request withdrawal of this rejection. As claims 2 and 3 directly

depend from claim 1, Applicants respectfully request withdrawal of the rejection of claims 2 and 3 as well.

Conclusion

In view of the above, Applicants respectfully submit that the pending claims are patentable over the cited references and request withdrawal of all rejections and allowance of the claims.

The Commissioner is hereby authorized to charge any fee deficiency or credit any overpayment in connection with this amendment to Deposit Account No. 50-4260.

Respectfully submitted,
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